



## Bureau of Justice Statistics

# Advanced State Award Program

National Criminal History Improvement Program

*Program Announcement*



# **Advanced State Award Program**

**National Criminal History  
Improvement Program**

***Program Announcement***

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**U.S. Department of Justice**  
Bureau of Justice Statistics

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Director

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## **The National Criminal History Improvement Program**

The National Criminal History Improvement Program (NCHIP) implements the grant provisions of the Brady Handgun Violence Prevention Act (Brady Act), 103 Pub. L. 159, 107 Stat. 1563, the National Child Protection Act of 1993, 103 Pub. L. 209, 107 Stat. 2490, and those provisions of the Violent Crime Control Act of 1994, 103 Pub. L. 322, 108 Stat. 1796, which pertain to the improvement of criminal history record systems.

The appropriation for the NCHIP program in Fiscal Year 1995 was \$100 Million. Of this amount, \$6 Million was transferred to the FBI to support implementation of the National Instant Criminal Background Check System (NICS), \$5 Million was awarded for program evaluation, firearm-related research, and State technical assistance, and \$88 Million was for direct awards to the States.

The NCHIP "core" program, as described in the Program Announcement issued by the Bureau of Justice Statistics (BJS) in November 1994, assists States in improving the quality and accessibility of criminal history records in support of the national record system, NICS. \$83 Million was designated for this component of the NCHIP program. Consistent with legislative preference for States with the least advanced computerized criminal history files, \$5 Million of this \$83 Million represents supplemental awards to 5 States designated as least-advanced priority states.

The Advanced State Award Program (ASAP), formerly referred to as the "extended core" program, is supported with \$5 Million from the Fiscal Year 1995 appropriation.

The NCHIP program builds on earlier efforts supported by the Bureau of Justice Statistics and the

Bureau of Justice Assistance (BJA). These include the BJS-administered Criminal History Record Improvement Program (CHRI) and the BJA-administered Byrne Formula 5% set-aside program. As described in the November 1994 Program Announcement, NCHIP is closely coordinated with the Byrne Formula program and with related activities being undertaken by the FBI and the Bureau of Alcohol, Tobacco, and Firearms.

## **The Advanced State Award Program**

The goal of the NCHIP Advanced State Award Program (ASAP) is to assist States in the identification of persons other than felons who are prohibited from purchasing firearms under 18 U.S.C. Sec. 922(g) and (n), as amended. This effort supports the goal of the permanent system established under Section 102(b) of the Brady Act by enhancing the effectiveness of the National Instant Criminal Background Check System (NICS).

The focus of the Advanced State Award Program is on the specific provisions (other than those pertaining to disqualified convicted felons) of 18 U.S.C. Sec. 922 (g) and (n), as amended by the Violent Crime Control Act of 1994, for which relevant data are available in State and local databases. The Federal Bureau of Investigation is implementing the Federal segment of the NICS and will make available to States, through the NICS, data which are available from or through the Federal systems.

Applications for funding under the Advanced State Award Program should focus on one or more of the following categories of persons prohibited from purchase of firearms:

Anyone who —  
— is an unlawful user of, or addicted to, any controlled substance;

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- has been adjudicated as a mental defective or been committed to a mental institution;
  - is an alien who is illegally or unlawfully in the United States;
  - is subject to any court order restraining them from threatening or committing acts of domestic violence or abuse;
  - is under indictment for an offense punishable by imprisonment for more than 1 year.

The objective of the Advanced State Award Program is to build a body of knowledge on the access and retrieval of data on these categories of prohibited persons for use by all the States; applicants should not focus exclusively on benefits to their own State.

**Definitions:** Final Regulations defining the categories stated above have not yet been issued. Pending release of such final definitions, applicants may refer to Appendix B for the current working definitions of prohibited classes other than felons. States will be advised of any changes in such definitions where applicable.

States should recognize that the definitions in Appendix B may be narrower than applicable definitions for prohibited firearm purchasers under State legislation. For purposes of the ASAP program, applicable State definitions which place broader restrictions on purchase of firearms may be used in defining eligible projects in those States. In those States, applicants should cite relevant State legislation, where pertinent.

## Eligibility criteria

To be eligible to apply for additional NCHIP funding under the Advanced State Award Program, a State must be a participant in the FBI's Interstate Identification Index (III) at the date of application. The same agency that submitted the State's original NCHIP application should submit the State's

application for ASAP funding. If an exception is necessary (for example, in the case of a successor agency), contact your BJS grant monitor.

## Allowable costs

Costs associated with developing access to databases on persons other than felons, who are ineligible to purchase a firearm, are allowed.

ASAP funds can be used to —

- investigate the existence and completeness of noncriminal history data bases;
- evaluate the feasibility of accessing relevant noncriminal justice data systems for purposes of background checks;
- create or upgrade noncriminal justice data bases;
- develop and/or implement protocols for accessing such systems and, where appropriate, incorporate such data into criminal history systems;
- develop and implement procedures for making data on prohibited persons other than felons available to the national NICS;
- develop and implement necessary protocols to ensure privacy and confidentiality of identifiable data;
- document activities, protocols, and systems to assist other jurisdictions in developing similar capabilities.

Where the system or procedures to be established or upgraded are not maintained by a criminal justice agency or the agency charged with implementation of the Brady Act, a justification for such proposed expenditures must be included with the application.

Consistent with NCHIP program policy applicable to systems which serve purposes other than the identification of prohibited persons, ASAP funds are allowable to cover only that portion of system

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development and implementation costs which support the NCHIP and ASAP goals and objectives as defined in the NCHIP Program Announcement and discussed above. Therefore, the applicant must determine (and the application must include) a reasonable cost estimate for that portion of a proposed effort which meets these objectives.

## The application

The application must contain a clear and concise description of the project proposed for funding and a statement of the benefits to be derived from the project both within the State and for other jurisdictions. A complete budget (including applicable proration information, where appropriate) and budget narrative must also be included. The budget should indicate costs associated with each task proposed for funding.

As in the original NCHIP application, the application should indicate any linkages between what is being proposed and activities of a similar nature that have been funded with State funds, or with funds made available under the Byrne Formula program. The application should also describe the relationship, if any, between the proposed efforts and the activities being funded under the State's NCHIP award.

See Appendix A, "Application and Administrative Requirements," for other information which should be included in the application.

**BJS recognizes that, in some cases, an "extended core" activity was proposed in the State's original NCHIP application. In order to minimize State effort, the same, or a revised version, of the previously submitted project description may be resubmitted for the State's ASAP application.**

## Selection criteria

Applications will be judged on a competitive basis. This means that some applications may not be selected for funding. Applications from different States which address the same kind of prohibited database will be judged against each other, although more than one may be funded.

Applications will be evaluated on the basis of the following factors:

- Evidence of the State's commitment to participate in and support the NICS, consistent with the Attorney General's Notice in the Federal Register on June 1, 1994;
- The extent to which the State has implemented an advanced criminal history record system (in terms of automation, arrest and disposition reporting, fingerprint supported records, and other relevant factors) or has provided evidence that plans are currently being implemented to achieve such a high level of operation;
- The extent to which the proposed development, use, or enhancement of innovative procedures, or the development and implementation of databases and/or operating policies, will be of value to other jurisdictions;
- The technical feasibility of the proposal and the extent to which the proposal appears reasonable in light of the State's current level of system development and statutory framework;
- The extent to which the State has demonstrated commitment to the improvement of criminal record systems through efforts supported with State funds or awards under the BJS administered CHRI program, the NCHIP program or the Byrne Formula program;
- Reasonableness of the budget and the nature of the proposed expenditures.

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## **When may a State apply?**

Applications for funding under the Advanced State Award Program will be accepted until December 31, 1995.

## **What is the maximum dollar amount for which a State may apply?**

In general, the maximum award will not exceed \$250,000 per State. If States wish to submit combined applications, larger award amounts will be considered.

## **When will awards be made?**

The selection of applications to be funded with funds appropriated in Fiscal Year 1995 will be made after the December 31 deadline. Awards will be announced no later than March 15, 1996. Projects can be scheduled for up to 24 months.

## **Whom should I contact if I have questions?**

Call your BJS NCHIP program manager or Carol G. Kaplan, Chief, Criminal History Improvement Programs, (202) 307-0759. The BJS fax number is (202) 307-5846.



## Appendix A

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### Application and administrative requirements

#### Application content

All applicants must submit:

- Standard Form 424, Application for Federal Assistance
- Standard Form 424A, Budget Information
- OJP Form 4000/3 (Rev. 1-93), Program Narrative and Assurances
- OJP Form 4061/6 Certifications
- OJP Form 7120/1 (Rev. 1-93), Accounting System and Financial Capability Questionnaire (to be submitted by applicants who have not previously received Federal funds).

Applicants are requested to submit an original and two copies of the application and certifications to the following address:

**Application Coordinator  
Bureau of Justice Statistics  
633 Indiana Avenue, NW  
Washington, DC 20531  
Phone: (202) 616-3500**

**Standard Form 424 (SF-424).** The SF-424, a one page sheet with 18 items, serves as a cover sheet for the entire application. This form is required for every application for Federal assistance. **No application can be accepted without a completed, signed original SF-424.** Directions to complete each item are included on the back of the form.

**Standard Form 424A (SF-424A).** All applications must include SF- 424A, Budget Information for all years of project activity. Applicants should ensure that all appropriate columns and rows balance. Directions to complete this form are found on page 3 of SF-424A.

**Detailed budget.** Applicants must provide a detailed justification for all costs including the basis for computation of these costs. For example, the detailed budget would include the salaries of staff involved in the project and the portion of those salaries to be paid from the award; fringe benefits paid to each staff person; travel costs related to the project; equipment to be purchased with the award funds; and supplies required to complete the project.

**Budget narrative.** The budget narrative closely follows the content of the detailed budget. The narrative should relate the items budgeted to specific tasks and allowable cost categories and should provide a justification and explanation for the budgeted items including the criteria and data used to arrive at the estimates for each budget category. Please note applications that include noncompetitive contracts for the provision of specific services must contain a sole source justification for any procurement in excess of \$100,000.

The budget narrative should indicate amounts to be made available to agencies other than the grant recipient (for example, the agency with responsibility for CCH, the courts, local agencies.)

**Program narrative.** All applications must include a program narrative which fully describes the expected design and implementation of the proposed program. OJP Form 4000/3 (Rev. 1-93) provides additional detailed instructions for preparing the program narrative.

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The narrative should include a time line of activities indicating, for each proposed activity, the projected duration of the activity, expected completion date, and any products expected.

The application should include a description of the roles and responsibilities of key organizational and/or functional components involved in project activities; and a list of key personnel responsible for managing and implementing the major elements of the program.

**Assurances.** OJP Form 4000/3 (Rev 1-93) must be included in the application submission. If submitting this form separate from the SF-424, the applicant must sign and date the form to certify compliance with the Federal statutes, regulations, and requirements as cited.

**Certification Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-free Workplace.**

Applicants should refer to the regulations cited in OJP Form, 4061/6 to determine the certification to which they are required to attest. A copy of OJP Form 4061/6 can be obtained from the BJS Application Coordinator. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 28 CFR Part 69, "New Restrictions on Lobbying," and 28 CFR Part 67, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the U.S. Department of Justice determines to award the covered transaction, grant, or cooperative agreement.

**Financial and administrative requirements**

Discretionary grants are governed by the provisions of OMB Circulars applicable to financial assistance. The circulars, with additional information and guidance, are contained in the "Financial and Administrative Guide for Grants," Office of Justice Programs, Guideline Manual, M7100, available from the Office of Justice Programs. This guideline manual, provided upon request, is intended to assist grantees in the administration of funds and includes information on allowable costs, methods of payment, Federal rights of access to records, audit requirements, accounting systems, and financial records.

Complete and accurate information is required relative to the application, expenditure of funds, and program performance. The consequences of failing to comply with program guidelines and requirements will be determined at the discretion of the Department.

**Civil rights obligations**

All applicants for Federal financial assistance must sign Certified Assurances that they are in compliance with the Federal laws and regulations which prohibit discrimination in any program or activity that receives such Federal funds. Section 809(c), Omnibus Crime Control & Safe Streets Act of 1968, 42 U.S.C. Sec. 3789d, provides that:

No person in any State shall on the ground of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, or denied employment in connection with any program or activity funded in whole or in part with funds made available under this title.

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Section 504 of the Rehabilitation Act of 1973, and Title II of the Americans With Disabilities Act prohibit discrimination on the basis of disability.

The applicant agency must discuss how it will ensure nondiscriminatory practices as they relate to —

- (1) Delivery of services or benefits — to ensure that individuals will not be denied access to services or benefits under the program or activity on the basis of race, color, religion, national origin, gender, age, or disability;
- (2) Employment practices — to ensure that its personnel in the program or activity are selected for employment without regard to race, color, religion, national origin, gender, age, or disability; and
- (3) Program participation — to ensure members of any planning, steering or advisory board which is an integral part of the program or activity are not excluded from participation on the basis of race, color, religion, national origin, gender, age or disability; and to encourage the selection of such members who are reflective of the diversity in the community to be served.

### **Audit requirement**

In October 1984, Congress passed the Single Audit Act of 1984. On April 12, 1985, the Office of Management and Budget issued Circular A-128, "Audits of State and Local Governments" which establishes regulations to implement the Act. OMB Circular A-128, "Audits of State and Local Governments," outlines the requirements for organizational audits which apply to BJS grantees.

### **Disclosure of Federal participation**

Section 8136 of the Department of Defense Appropriations Act (Stevens Amendment), enacted in October 1988, requires that, "when

issuing statements, press releases for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total cost of the program or project which will be financed with Federal money, and (2) the dollar amount of Federal funds for the project or program."

### **Intergovernmental review of Federal programs**

Federal Executive Order 12372, "Intergovernmental Review of Federal Programs," allows States to establish a process for reviewing Federal programs in the State, to choose which programs they wish to review, to conduct such reviews, and to make their views known to the funding Federal agency through a State "single point of contact."

If the State has established a "single point of contact," and if the State has selected this program to be included in its review process, the applicant must send a copy of its letter or application to the State "single point of contact" at the same time that it is submitted to BJS. The letter or application submitted to BJS must indicate that this has been done. The State must complete its review within 60 days. The review period will begin on the date that the letter or application is officially received by BJS. If BJS does not receive comments from the State's "single point of contact" by the end of the review period, this will be interpreted as a "no comment" response.

If the State has not established a "single point of contact," or if it has not selected the BJS statistics development or criminal history improvement programs in its review process, this must be stated in the letter or application.



## Appendix B

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### Categories of persons prohibited from receiving firearms\*

#### **Persons who are under indictment for, or have been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year**

This category includes any person (1) who currently is under indictment (or "information") for a crime **punishable** by imprisonment for a term exceeding one year, or whose case has been referred to court-martial if he/she is in the military; or (2) who has been convicted in any court (including, for example, a military court) of a crime **punishable** by imprisonment for a term exceeding one year. ("Information" refers to a formal accusation of a crime made by a prosecuting attorney, as distinguished from an "indictment" presented by a grand jury.) The maximum sentence that may be imposed determines whether a person is under indictment or information for a disabling crime. Similarly, the maximum sentence that may be imposed, rather than the actual sentence, determines whether a person has been convicted of a disabling crime. Such a crime includes any Federal, State, or foreign offense for which the maximum penalty is capital punishment or imprisonment in excess of one year. Indictments, information, and convictions for the following crimes are exceptions and are **not** disabling: (1) Federal or State offenses pertaining to antitrust offenses, unfair trade practices, and other similar business-related offenses; and (2) State offenses classified by State law as misdemeanors punishable by imprisonment for a term of 2 years or less.

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These definitions of categories of persons prohibited from receiving firearms are pending final action by the Bureau of Alcohol, Tobacco and Firearms, U.S. Treasury Department.

Any conviction which has been expunged, set aside, or for which a person has been pardoned or has had civil rights restored **remains disabling if** (1) the pardon, expunction, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms, **or** (2) the person is prohibited by the law where the conviction occurred, from receiving or possessing any firearm. Also, a State's restoration of a convicted felon's civil rights does not remove any firearms disability caused by a Federal conviction. The burden of proof is on the applicant to prove that his/her firearms disabilities have been removed.

#### **Persons who are fugitives from justice**

This category includes persons (1) who know they have charges pending against them, even if only for a misdemeanor, and who leave the State of prosecution, or (2) who leave the State in order to avoid giving testimony in any criminal proceeding.

#### **Persons who are unlawful users of or addicted to any controlled substance**

This category includes persons who are unlawful users of or addicted to any controlled substance, as defined in section 102 of the Controlled Substances Act. Controlled substances include, but are not limited to, marijuana, depressants, stimulants, and narcotic drugs. They do not include distilled spirits, wine, malt beverages, or tobacco.

It is unlawful to use any illegal controlled substance (such as PCP), or to use any other controlled substance (such as morphine) in a manner other than as prescribed by a licensed physician. A person who is "addicted" to a controlled substance is any individual who is found to (1) habitually use a controlled substance so as to endanger the health, safety, welfare, or morals

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of the public, or (2) to have lost the power of self-control with reference to the addiction.

To incur firearms disabilities, there must be evidence that a person is a current unlawful user of, or addict to, a controlled substance. Such unlawful use or addiction may be demonstrated by evidence of: (1) the recent use of a controlled substance, which is part of a pattern of unlawful use or addiction; or (2) the current unlawful use of, or addiction to, a controlled substance.

Evidence of unlawful use or addiction includes, but is not limited to, any of the following: a criminal record, self-admission of use, diagnoses or other records at a drug treatment or rehabilitation center or other medical facility, testimony or a statement by a psychiatrist or other licensed physician who diagnosed the symptoms or treated the person, needle marks on the person, a failed (that is, "positive") drug test, or testimony of a social acquaintance who observed the unlawful use of a controlled substance by the person.

Concerning drug tests, failing a single drug test would give reasonable cause for disqualifying a person from purchasing a firearm. Federal agencies may exercise discretion in determining when to report the "positive" result of a drug test for controlled substances. For example, agencies are not required to report such results prior to giving the person an opportunity to contest the results of the "test" through a proceeding that provides due process.

### **Persons who have been adjudicated as mental defectives or been committed to a mental institution**

The category includes persons who have been adjudicated as mental defectives or been committed to a mental institution by a court, board, commission, or other lawful authority. An

adjudication as a mental defective occurs when a court, board, commission, or other lawful authority determines that an individual is mentally retarded or of marked subnormal intelligence, mentally ill, or mentally incompetent. Examples of persons adjudicated as mental defectives include defendants in criminal cases who are found not guilty by reason of insanity, and persons found to be a danger to others as a result of a mental disorder or illness.

For there to be a disabling "commitment" to a mental institution, a formal commitment by a court, board, commission, or other legal authority is necessary. Any person who has been committed in such a way to a mental institution ***involuntarily*** — even for reasons other than mental defectiveness or mental illness (such as for drug use) — is prohibited from receiving firearms. However, the mere presence of a person in a mental institution for observation is not a disabling commitment. Also, a voluntary commitment to a mental institution is not disabling. "Mental institutions" include mental health facilities, mental hospitals, sanitariums, psychiatric facilities, and other facilities that provide diagnoses by licensed professionals of mental retardation or mental illness.

### **Persons who are aliens and are illegally or unlawfully in the United States**

This category includes all aliens who are unlawfully in the United States or are not in a valid nonimmigrant or immigrant status — except for individuals in "immigration parole" status (see the note below). Examples of persons in this category include any alien —

- (1) Who has entered the country illegally;
- (2) Nonimmigrant whose authorized period of admission has expired;
- (3) Student who has failed to maintain status as a student; or

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(4) Under an order of deportation, whether or not he/she has left the United States.

(Note: Aliens are not disqualified from purchasing firearms for being in "immigration parole" status in the United States pursuant to the Immigration and Nationality Act (INA), 8 U.S.C. Sec. 1101 *et. Seq.* In accordance with the INA, immigration parole may be granted temporarily to an alien at the discretion of the U.S. Attorney General "for emergent reasons or for reasons deemed strictly in the public interest." An example would be a person who is ineligible to enter the United States legally, but who has been granted parole into the United States to assist the government in an investigation.)

#### **Persons who have been discharged from the Armed Forces under dishonorable conditions**

This category only includes persons whose separation from the Armed Forces resulted from a dishonorable discharge. It does not include, for example, persons whose separation from the Armed Forces resulted from a dismissal, bad conduct discharge, or other than honorable discharge.

#### **Persons who have renounced their United States citizenship**

This category includes persons who have formally renounced their United States citizenship either (1) before a diplomatic or consular officer of the United States in a foreign state, or (2) before an officer designated by the Attorney General when the United States is in a state of war.

#### **Persons who are subject to a court order restraining them from committing domestic violence**

This category includes any person who, at the time he/she applies to receive a firearm, is under a court order that meets the following criteria:

- The order must have been issued after a hearing of which the person subject to the order received actual notice, and at which the person had an opportunity to participate; **and**
- The order must restrain the person subject to the order from harassing, stalking, or threatening an intimate partner of the person, or a child of the intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; **and**
- The order must include a finding that the person subject to the order represents a credible threat to the physical safety of the intimate partner or child, **or** the order must explicitly prohibit the use, attempted use, or threatened use of physical force against the intimate partner or child that would reasonably be expected to cause bodily injury.

The term "intimate partner" is defined as a spouse, former spouse, an individual who is a parent of a child of the person, or an individual who cohabitates or has cohabited with the person.

#### **Persons who are juveniles**

This category covers the prohibition against the transfer of firearms by Federal Firearms Licensees to certain underage persons. Federal Firearms Licensees are prohibited from transferring a **shotgun or rifle** to any person less than 18 years of age, and are prohibited from transferring **any other firearm, including a handgun**, to any person less than 21 years of age.

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## Appendix C



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This file does not  
contain the application  
forms published  
in Appendix C